

USERS GUIDE TO THE LAND DIVISION PROCESS

San Luis Obispo County Department of Planning and Building

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INTRODUCTION

This is your guide to land division applications. It is designed to help answer your questions about the process, including:

- U Where do I begin, if I want to subdivide my property?
- U What information must I provide to be sure my application is complete?
- U How much will the process cost?
- U After I submit my application, what will happen before the land division can be approved or denied?
- U What considerations are reviewed before a decision is made to approve or deny a land division?
- U How long will the process take?

WHAT IS A LAND DIVISION?

A land division or subdivision is defined by the State Subdivision Map Act (the state law that governs the division of land) as:

...the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or contiguous units, for the purpose of sale, lease or financing, whether immediate or future.

If you are dividing your property you will need to file either a “tentative parcel map” or a “tentative tract map.” Generally, a parcel map is required when your division creates fewer than five parcels. A tract map is required when five or more parcels will be created.

There are also a number of other related applications. These include “lot line adjustments,” “public lots,” “certificates of compliance,” and “voluntary mergers.”

A lot line adjustment is a modification of the boundary between two or more adjacent parcels. Land from one parcel is added to an adjacent parcel with no additional parcels created. For example, if you and a neighbor want to move a lot line that interferes with a barn or fence, a lot line adjustment is used.

A public lot is a request by a public agency to waive the requirement for filing a parcel map. It is used when land is conveyed to or from a governmental agency, public entity or public utility.

A certificate of compliance is a determination by the county that your parcel is a legally created parcel which complied with provisions of the Subdivision Map Act and county ordinances in effect when it was created. If the county determines that the parcel was not created legally, a conditional certificate of compliance will be issued. You are required to comply with conditions that would apply to the land division if it was completed legally.

A voluntary merger is used to merge two or more contiguous parcels under common ownership. All owners of record for the property need to agree to and sign the voluntary merger. For example, a voluntary merger is used when your house straddles a lot line, and you own both lots.

POINTS TO CONSIDER

There are a number of issues you should consider when designing your land division and preparing your application, including:

- ◆ What is the zoning and minimum parcel size?
- ◆ What type of land division application is required?
- ◆ What are the application fees?
- ◆ Who can prepare the map?
- ◆ Would the project raise environmental concerns?
- ◆ Is the site near any hazards? (creeks, airports, earthquake faults)
- ◆ What is the availability of utilities? (water, sewer, gas, etc)
- ◆ Are the roads adequate?
- ◆ Are the fire safety provisions adequate?
- ◆ Does each site contain an adequate building site?

LAND DEVELOPMENT IN THE COUNTY

Land use regulations are important to any person considering land division because the regulations determine:

- ◆ How a particular lot can be used
- ◆ If a lot can be divided
- ◆ Where particular uses are allowed
- ◆ What requirements and permit procedures must be completed before a lot is created or a use allowed.

Regulations for the use and development of land are found in four documents: (1) the Land Use Element of the general plan ; (2) the Land Use Ordinance (the zoning ordinance); (3) the Real Property Division Ordinance; and (4) the Building and Construction Ordinance. All the elements of the adopted general plan are also used in project review.

Because a portion of this county is within the coastal zone, which is a specific area designated by the 1976 California Coastal Act, the county has two Land Use Elements of the general plan and two Land Use Ordinances. The Land Use Element/Local Coastal Plan and the Coastal Zone Land Use Ordinance apply to the portions of the county within the coastal zone. The Land Use Element and the Land Use Ordinance apply to areas outside of the coastal zone - the inland portions of the county.

The document most important to the division of land is the Real Property Division Ordinance, Title 21 of the county code. It contains technical regulations and procedures for divisions of land, lot line adjustments, and certificates of compliance. It is used in conjunction with the Subdivision Map Act, a state law affecting divisions of land.

WHERE DO I BEGIN?

In an initial meeting with an information planner, you will be given an overview of the process and a checklist of information and materials you will need to provide for a complete land division application.

In certain cases, you may want to schedule a pre-application appointment in place of, or after, your initial meeting. A pre-application meeting is an opportunity to meet with a project planner and an environmental specialist to have an in-depth discussion about your project. At this meeting, additional submittal requirements (such as special reports or studies) and concerns and/or design considerations for the project will be discussed. The fee for this meeting will be credited toward your application submittal fees. Both of these types of meetings can be scheduled by calling the Planning Department at 781-5600.

WHAT INFORMATION MUST I PROVIDE AND HOW MUCH WILL THE PROCESS COST?

An application for a land division or related application must include the following information:

A. Application A standardized application which provides general information about the applicant, the property owner, and the property. On the back of this application is the "Consent of Landowner" form authorizing an agent to act for the landowner.

B. Land Division Application. This form provides specific information about the requested project.

C. Information Specified on Checklist. A checklist is provided with your application package. At your initial and/or pre-application meeting, staff will tell you which of the reports, maps, plans, and drawings you need to provide from the checklist. If you have questions about the specific information you need to include with your application, staff will assist you either in person or by telephone.

D. Environmental Description Form Only those projects that can not be found to be exempt from an environmental determination will require this form providing pertinent information about the physical characteristics of the site. The information will be used to complete the environmental review of the requested project, as is required by the California Environmental Quality Act (CEQA).

E. Filing Fee and Cost Accounting Form The filing fees are set by the county fee ordinance each year. Fees vary depending on the type of application. For more information about the application fee, contact department staff at (805) 781-5605.

WHAT HAPPENS NEXT?

Once your completed application is filed, planning staff will review the information provided, visit and check the project site in the field, and send referrals to various agencies that have an interest in the proposed application. In addition, an interagency review meeting to discuss the project may be held with agencies involved with the review of your project.

A. Completeness Determination. Within 30 days of submission of your application, staff will complete the initial review. The site will be viewed and a letter will be sent to you if additional information is needed. Submitting complete information with your initial application will speed this review process. Once staff determines that your application is complete, a letter formally accepting your application for processing is sent to you. Accepting an application for processing does not guarantee that the project will be approved. The proposal must still undergo environmental review, a detailed staff analysis, and public hearings. If serious problems are identified, the project may be denied, or it may change as part of its approval.

B. Environmental Review. As required by the California Environmental Quality Act (CEQA), the application will be subject to an environmental review to determine if significant environmental impacts could result from the proposed application. The review will result in either an "Exemption" (either categorical or general rule), a Negative Declaration (ND), or a determination that an Environmental Impact Report (EIR) is required. An Exemption from environmental review is granted for certain categories of projects or when, as a general rule, no impacts are associated with a project. An official statement asserting the county's position that the proposed application would produce no significant environmental impacts is called an N.D. An EIR is required when the proposed application has the potential to produce significant environmental impacts. It thoroughly analyzes those potential environmental impacts and recommends specific mitigation measures designed to minimize or otherwise address each impact. When an EIR is recommended by staff, an applicant may request that the Board of Supervisors decide whether or not to require an EIR.

C. Decision Most land division and related applications require a public hearing before a decision is made. Certificates of Compliance, Voluntary Mergers and Public Lots do not require a public hearing. The Planning Director or a designee will make the decision to approve, approve with conditions, or deny the application. The Subdivision Review Board (SRB) will hold public hearings on Conditional Certificates of Compliance, Lot Line Adjustments and Parcel Maps before making a decision to approve, conditionally approve or deny the application. The Planning Commission holds the public hearing for Tract Maps. At the public hearing any person may express their views about the proposal. SRB and Planning Commission decisions are based on consideration of the staff report, information the applicant provides, and comments from the public. It is extremely important that the applicant attend any hearing and be prepared to answer questions about the proposal.

D. Appeal Decisions on land divisions and associated permits may be appealed. In the case of staff level approvals, the appeal is heard by the Planning Commission. In the case of a SRB or Planning Commission decision, the appeal is heard by the Board of Supervisors. An appeal is completed by holding a public hearing on the issue(s) raised in the appeal. Any interested person or the applicant can appeal all or part of the project. As in the case of any public hearing, it is essential that the applicant attend. Except for projects located within the Coastal Zone, the Board decision is final.

E. Projects Within the Coastal Zone California state law allows for approved projects located within the Coastal Zone to be appealed to or by the California Coastal Commission. A hearing before the Coastal Commission is scheduled by its staff. This hearing will likely be held in a location outside of the county. The Coastal Commission's determination on whether to hear the appeal, and any decision they render, is final.

WHAT IS CONSIDERED IN APPROVING OR DENYING A LAND DIVISION APPLICATION?

In requesting approval of any application, applicants should keep in mind that the project will be carefully reviewed to determine how the proposal relates to the specific site, and how it may affect its neighborhood and the community. To put it another way, the decision-makers want to be sure that the development fits with the surrounding area and supports adopted community goals. The following concerns are likely to be considered before any decision is made on a project.

A. General Plan Consistency A proposed land division must be found to be consistent with all the goals, objectives, policies and standards that are set forth in the adopted county general plan.

B. Area Plan & Land Use Ordinance Standards Planning Area Standards, which are found in Article 9 of the Land Use Ordinance for the Inland areas of the county and the Land Use Element Area Plans for the Coastal areas of the county, can include special requirements and/or set a minimum parcel size different from that allowed by the Land Use Ordinance. When there is a difference, the planning area standards override the Land Use Ordinance.

C. Minimum Parcel Size If a minimum parcel size was not set through Planning Area Standards, turn to Chapter 22.22 of the Land Use Ordinance. Find the section heading for the land use category (zoning) that applies to the site. The minimum parcel size is based on a number of factors including, the use of the site, the soil classification, the distance from a community, the existing services, and/or the fire hazard. Minimum parcel size is determined by applying the tests for the applicable land use category to the site features. The minimum size is the largest area obtained from any of the tests. The proposed parcels must be no smaller than this minimum parcel size.

D. Relationship to Community Goals A proposed project that furthers community planning goals is more likely to be approved than one that hinders them. Most communities have goals that encourage certain densities within the community. Projects should have the community's support and further those goals.

E. Land Capability and Service Availability Whether the land can support the types of development proposed will be evaluated. Topography, sensitive environmental resources, service availability, and access will all be considered.

F. Environmental Impacts Proposed applications are evaluated to determine whether they would adversely affect the environment. Proposed land divisions and adjustments should be designed to avoid or minimize environmental impacts.

G. Factors to be Considered Chapter 3 of the Real Property Division Ordinance contains the criteria applied to land divisions, including standards on parcel design, landscaping, access and circulation design, flood hazard and drainage, water supply and sewage disposal, and utilities. You should review all of these standards to make sure that what you are proposing is consistent with the criteria.

H. Parkland dedication Chapter 9 of the Real Property Division Ordinance contains the provisions for parkland dedication/in-lieu fee (Quimby Ordinance). Most land divisions are subject to these requirements. For information about the these requirements, please refer to the information bulletin "Guide to Quimby Ordinance."

HOW LONG WILL THE PROCESS TAKE?

Processing times vary depending upon the site, and the complexity and environmental impacts associated with the project. In most cases, a land division application that requires a public hearing takes nine to twelve months to process. If the applications are complete, certificates of compliance and voluntary mergers are generally approved within a month. You can help expedite the review process by making sure your application is complete, your proposal is clearly stated and all required information is provided. The Department of Planning and Building is available to answer your questions regarding any application requirement.

For more information about the process or to make an appointment for either an initial meeting or a pre-application meeting, call (805) 781-5600.

This guide is designed to provide general information only. It is not a county ordinance or policy and has no legal effect. The general plan and other chapters of the San Luis Obispo County Code are the official regulations of the county. Those documents, rather than this guide, are the only legal basis for assessing how county regulations affect property development.